

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

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ELVA TERESA SELVESTER,

Plaintiff,

v.

ANDREW SAUL, Commissioner of Social
Security,

Defendant.

Case No. 2:20-cv-01536-GMN-EJY

REPORT AND RECOMMENDATION

RE: Order to Show Cause (ECF No. 20)

On March 2, 2021, the Court issued an Order to Show Cause (“OSC”) why this matter should not be dismissed. ECF No. 20. In that Order, the Court granted Plaintiff through and including April 1, 2021 to provide the Court, in writing, why dismissal should not occur. *Id.*

Prior to issuing the OSC, the Court granted Plaintiff’s Application for Leave to Proceed *in forma pauperis*. ECF No. 5 at 2 (issued on August 27, 2020). The Court further ordered that Plaintiff’s Complaint challenging the Social Security Administration’s denial of Social Security Disability Insurance benefits to proceed against Defendant. *Id.* On January 5, 2021, Defendant filed his Answer (ECF No. 15) and, one day later, Defendant filed the Certified Administrative Record under seal (ECF No. 17).

On January 6, 2021, the Court issued its Scheduling Order. ECF No. 18. Among other things, the Order directed Plaintiff to file a motion to remand based on new medical evidence or a motion for reversal and/or remand based on the existing medical evidence on or before February 5, 2021. *Id.* at 2. The Court advised the parties that a “[f]ailure of a party to file a motion or points and authorities required by this Order may result in dismissal of the action.” *Id.* at 5. As of the date of the OSC, Plaintiff had not filed a motion to remand. And, as of today’s date, Plaintiff has not responded to the OSC.

1 Accordingly,

2 IT IS HEREBY RECOMMENDED that Plaintiff's Complaint (ECF No. 6) be DISMISSED.

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4 DATED THIS 19th day of April, 2021.

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7 ELAYNA J. YOUCHAK
8 UNITED STATES MAGISTRATE JUDGE
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10 **NOTICE**

11 Pursuant to Local Rule IB 3-2, any objection to this Finding and Recommendation must be
12 in writing and filed with the Clerk of the Court within fourteen (14) days. The Supreme Court has
13 held that the courts of appeal may determine that an appeal has been waived due to the failure to file
14 objections within the specified time. *Thomas v. Arn*, 474 U.S. 140, 142 (1985). This circuit has also
15 held that (1) failure to file objections within the specified time and (2) failure to properly address
16 and brief the objectionable issues waives the right to appeal the District Court's order and/or appeal
17 factual issues from the order of the District Court. *Martinez v. Ylst*, 951 F.2d 1153, 1157 (9th Cir.
18 1991); *Britt v. Simi Valley United Sch. Dist.*, 708 F.2d 452, 454 (9th Cir. 1983).